



STATE OF WASHINGTON

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

P.O. Box 45010, Olympia, Washington 98504-5010

November 25, 2003

Thomas Scully, Administrator
Centers for Medicare and Medicaid Services (CMS)
Department of Health and Human Services
Mail Stop: C5-11-03
7500 Security Boulevard
Baltimore, Maryland 21224-1850

Dear Mr. Scully:

I am writing to urgently request that the Centers for Medicare and Medicaid Services (CMS) provide us with a decision regarding our 1115 demonstration waiver application. This waiver would allow Washington to adopt premium requirements for Medicaid optional children in families with income above 100 percent of the federal poverty level (FPL). **We need immediate approval in order to implement these premium provisions by February 2004, as directed our State Legislature.**

On July 18, 2003, we submitted our third-revised 1115 waiver request. Unlike our prior requests, this application only sought to implement legislative and budget requirements to adopt Medicaid premium requirements for optional children. This new premium requirement, in conjunction with revised SCHIP premiums, has been forecasted to save \$33.7 million in federal Title XIX and XXI funds and \$32.0 million in state funds during our state's 2003-2005 biennial budget cycle.

Based on discussions with your staff, we were advised that CMS was seeking an October target date to complete review and make a decision on our application. On August 29, 2003, we received a set of questions from CMS regarding the application. We submitted a response to the 17 questions on September 15, 2003.

By October, we were advised by your staff that they had completed their review. We were told there were two outstanding issues: (a) Office of Management and Budget (OMB) approval of the demonstration's "budget neutrality"; and, (b) exempting American Indian (AI) and Alaskan Native (AN) families from premium requirements in accordance with our state's Tribal Accord with the 29 AI tribes located in Washington State. Otherwise, CMS staff indicate they are prepared to recommend that Secretary Thompson approve the demonstration.

During the past two months, your staff informed us that CMS officials have been attempting to meet with OMB to obtain their approval regarding budget neutrality. We have agreed to use the so-called "per-capita cap" method to measure budget neutrality. While this approach does not take into account the impact of caseload changes due to the adoption of premiums, we have agreed to use it.

We have spent over a year in revising our Medicaid eligibility system and our agency's billing and collection system to be able to implement the new premiums for service coverage beginning February 2004. We are at a critical point in needing to inform Medicaid and SCHIP families of their premium requirements.

We also understand that CMS and HHS' Office of Civil Rights are reviewing both Oregon and Washington's requests to exempt AI/AN clients and families from certain Medicaid waiver requirements. Under existing CMS interpretation, states must exempt AI/AN children from SCHIP premiums. We must be given approval to exempt Medicaid AI/AN children from premium requirements. If we are not granted an exemption for AI/AN Medicaid children, we will be faced with a situation where families with incomes between 200% and 250% of FPL would be exempt from existing state SCHIP premium requirements, while families with incomes between 100% and 200% of FPL would be required to pay premiums for Medicaid coverage of their children. As you can well appreciate, there is no policy logic for such a situation.

Our July 2003 application is our third request to reform our state's Medicaid program. In November 2001, we submitted an 1115 demonstration waiver request that would have provided the Governor and State Legislature with a new set of policy options that were intended to help our state sustain Medicaid coverage for our state's most vulnerable residents. This demonstration, which parallels reform provisions proposed in your recent Medicaid reform proposal, would have allowed Washington to: (a) adopt targeted copayments and premiums; (b) have flexibility to adopt different benefit designs for optional Medicaid populations; (c) impose enrollment limits for optional program coverage when expenditures exceed the level appropriated by our State Legislature; and (d) use our unspent SCHIP allotment funds to provide coverage to adults through our state's Basic Health Program (BHP).

CMS' response to this waiver was that it lacked specificity necessary for approval and that we should use the HIFA template to expedite the process. CMS staff gave initial indication of areas where CMS would not approve program changes, including: (a) elimination of EPSDT requirements for optional children; and (b) the ability to deny coverage when a Medicaid beneficiary fails to pay their copayments. We were also advised to seek further stakeholder input in our application process.

After statewide stakeholdering, we submitted a HIFA application in August 2002 that addressed CMS' initial concerns and further development on our part. We requested authority to: (a) impose premiums on optional Medicaid clients above FPL; (b) require drug and emergency room copayments above nominal amounts; (c) reduce benefits for certain optional Medicaid adult eligibility groups; (d) impose an enrollment freeze on Medicaid optional coverage groups when projected caseloads exceed appropriations; (e) utilize a "presumptive" budget neutrality assurance methodology; and (f) use our state's unspent SCHIP allotment to expand the BH program to cover parents of Medicaid and SCHIP children and childless adults.

After this submittal, my staff had ongoing discussions over a multi-month period with your staff to clarify what CMS was prepared to approve. Based on these discussions, we understood that CMS was prepared to grant necessary waivers to impose premiums for Medicaid optional clients with incomes above 100% of FPL. Your staff also indicated that they had authority and would approve a waiver of service comparability for adults so long as mandatory service requirements were retained. Specifically, staff indicated they would approve elimination of dental, vision and hearing services for optional CN Medicaid Buy-In and Medically Needy adults.

We were also advised that CMS would approve use of unspent SCHIP funds to expand BHP coverage for adults. However, the state would have to meet certain maintenance of effort (MOE) requirements to assure that our state is not supplanting state funds with federal funds.

Based on these potential waiver options, our state Legislature directed our agency to implement premium requirements for Medicaid CN Optional children and to increase premium requirements for SCHIP children. These premium requirements are designed to not exceed three percent of any families' gross household income. Thus, these premiums fall well within the parameters set forth for HIFA waivers and those required under Title XXI for SCHIP. The Legislature directed us to obtain an approved waiver by September 2003, and to implement the premium changes by February 2004.

Because of funding reductions for BHP, we are not able to comport with MOE requirements until July 2005. As a result, our current 1115 request does not include a SCHIP financed expansion for coverage of parents with Medicaid children and other childless adults.

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We need a CMS decision on our application. Further delays will prohibit us from implementing the premium requirements by February 2004. This in turn may cause the legislature to have to consider other Medicaid reduction options. Your prompt reply would be most appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis Braddock", written over the printed name.

DENNIS BRADDOCK
Secretary

cc: Governor Gary Locke
Doug Porter
Ree Sailors
Wolfgang Opitz
Dennis Smith
Mike Fiorre
Julie Harkins
Karen O'Connor
Carol Crimi